

## Today's Arguing Attorneys

### For Appellant, Latisha Lawson

John C. Bohdan  
Deputy Public Defender,  
Fort Wayne

**John C. Bohdan**, 47, was born and raised in Mishawaka, Indiana. He received his BA and JD from Indiana University-Bloomington and has practiced for the last twenty-two years in Fort Wayne, Indiana.

His practice has increasingly focused on criminal defense litigation, and he has served as a public defender on major felonies in Allen County since 1998, in addition to his private caseload.

John has tried over 200 criminal jury trials, and has previously appeared before the Indiana Court of Appeals, the Indiana Supreme Court, as well as the 7th U.S. Circuit Court of Appeals.

When not occupied with the operation of his legal practice, John enjoys traveling to see rock concerts, photography and a lifelong study of the history of World War II.

### Judge Najam Jr., cont.

has served as a member of the Indiana Supreme Court Committee on Rules of Practice and Procedure (1995 to 2005) and the Indiana Supreme Court Judicial Technology and Automation Committee (1999 to 2005), and he represents the judiciary on the Indiana Department of Homeland Security Counter-Terrorism and Security Council.

Judge Najam is a member of the American, Indiana, and Monroe County Bar Associations, a graduate of the Indiana Graduate Program for Judges, a Fellow of the American, Indiana and Indianapolis Bar Foundations, a member of the Indiana University Maurer School of Law Board of Visitors, a member of Phi Delta Phi legal fraternity, and an Eagle Scout. Judge Najam and his wife live in Bloomington.

### For Appellee, State of Indiana

George P. Sherman  
Deputy Attorney General,  
State of Indiana

**George P. Sherman** was raised in Fremont, MI and Zephyrhills, FL. He received his Bachelor of Arts degree in religious studies from Bob Jones University in Greenville, SC in 1999 and his Doctor of Jurisprudence degree from Indiana University School of Law-Bloomington in 2002.

During law school, Mr. Sherman was named one of the best oral advocates in the Sherman Minton Moot Court Competition. Mr. Sherman also clerked at the Office of the Indiana Attorney General in the General Litigation and Appeals Divisions. Following his graduation from law school, he had a postdoctoral fellowship at the law school with Fred Aman, who was then Dean of IU School of Law-Bloomington.

Mr. Sherman was admitted to practice in Indiana and the U.S. District Courts for the Northern and Southern Districts of Indiana in 2002. In December of that year he joined the Office of the Indiana Attorney General as a Deputy Attorney General in the Appeals Division. Mr. Sherman has argued before the Court of Appeals of Indiana, the Indiana Supreme Court and the United States Court of Appeals for the Seventh Circuit, including in *Beattie v. State*, 924 N.E.2d 643 (Ind. 2010); *Salyers v. State*, 862 N.E.2d 650 (Ind. 2007); and *Pinkston v. Madry*, 440 F.3d 879 (7th Cir. 2006).

[www.in.gov/judiciary/appeals](http://www.in.gov/judiciary/appeals)

## Court of Appeals facts and history

■ The Court hears cases in three-Judge panels that rotate three times per year. Cases are never assigned to a single Judge, and all cases are randomly assigned.

■ Including Judges serving senior terms, 133 Judges have served the Court since its inception. Their photos are displayed against the north wall of the Statehouse on the fourth floor. Judge James B. Black (1838-1916) was the Court's first Chief Judge.

■ Because the Indiana Constitution provides "an absolute right to one appeal," the Court of Appeals considers about 2,300 cases each year. The Indiana Supreme Court need not consider every appeal, so it decides about 100 cases per year.

■ Eight women and two African Americans have served on the Court. Current Chief Judge Margret G. Robb is the Court's first female Chief Judge.

■ The Court of Appeals doesn't hold trials or evidentiary hearings. Rather, the Court reads the Trial Court record, considers the arguments presented by lawyers for the parties, and applies statutory and case law to the facts and circumstances that were presented at trial.

■ The court decides most cases without holding oral argument. In 2009, for example, the court issued 2,507 opinions but heard only 105 oral arguments.

■ The court hears and decides about twice as many criminal cases as civil cases each year.

■ The Court of Appeals affirmed trial court decisions in 80.9 percent of its cases in 2010 (including 86.5 percent of criminal cases).

## COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE UNIVERSITY OF NOTRE DAME LAW SCHOOL

# Lawson v. State of Indiana

### CRIMINAL LAW ISSUES:

Did the jury err in rejecting the Appellant's insanity defense?

### ORAL ARGUMENT:

Monday, April 2, 2012  
3:30 p.m.

### APPEAL FROM:

Allen Superior Court,  
The Honorable  
Frances C. Gull, Judge

## Case Synopsis, Facts & Procedural History

**L**atisha Lawson was the mother of two children: K.K., born in 2000, and J.K., born in 2007. In October 2009, Lawson and her children moved in with Natasha Hawkins and her three children in Ft. Wayne. While Lawson lived with Hawkins, other persons who came into contact with Lawson did not notice any signs of mental illness or unusual behavior.

However, Lawson was frequently battering K.K. with a belt and extension cords, sometimes with enough force to leave permanent scars. Additionally, Lawson began believing that J.K. was possessed by a demon and that God had revealed a plan to exorcise the demon. It would require forcing J.K., along with K.K. and Hawkins's children, to drink a com-

bination of "blessed" olive oil and vinegar.

On a day in November 2009, all of the children were given the oil and vinegar mixture. J.K. fought against drinking it. Hawkins helped hold J.K. down while he was given the mixture. In order to force J.K. to ingest the mixture, Lawson held her hand over his mouth for as long as five to ten minutes. Eventually, Lawson noticed that J.K. stopped breathing and had died.

After J.K. died, his body was placed on Hawkins's bed, where it remained for approximately one month while Lawson and Hawkins continued sleeping in the bed next to it. Lawson told one of Hawkins's children that she was "doing things for God" that would lead to J.K. coming back to life. Later, J.K.'s body was moved

into a closet and eventually stuffed into a plastic bin. Lawson moved out of Hawkins's apartment at the end of November 2010, taking the plastic bin with her.

On December 20, 2010, Hawkins revealed to Ft. Wayne police officers that a baby had been killed in her apartment approximately one year before. Police then tracked Lawson down to where she was currently staying, and they found the plastic bin with J.K.'s body inside. The State charged Lawson with murder, two counts of battery, and three counts of neglect of a dependent.

Lawson filed notice that she intended to rely upon a defense of insanity. She was examined by two court-appointed experts: Dr. Kevin Wieland, a psychologist, and Dr.

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## Case synopsis, cont.

Herbert Trier, a psychiatrist. At Lawson's jury trial, Dr. Wieland was asked whether he had an opinion on whether Lawson was insane at the time of the crime and he responded, "My opinion [sic] that Ms. Lawson was able to determine right from wrong regardless of a delusional process she may have." Dr. Trier testified that he "felt that she was not sane at the time of the offense." Dr. Trier believed that Lawson may have had either psychotic depression or schizophrenia. The jury rejected Lawson's insanity defense and she was convicted of murder, two counts of neglect of a dependent, and one count of battery.

### Arguments

On appeal, Lawson contends that the jury erred in rejecting her insanity defense. She specifically claims that Dr. Wieland failed to understand the proper legal standard for insanity. That standard requires a defendant to prove that he or she was suffering from a mental disease or defect that rendered him or her unable to appreciate the wrongfulness of the conduct at the time of the crime. Lawson argues that without Dr. Wieland's testimony, Dr. Trier's testimony and undisputed evidence regarding the "exorcism" attempt clearly proves that she was legally insane at that time.

The State responds that Dr. Wieland did in fact understand the proper legal standard for insanity. Moreover, it claims that even if Dr. Wieland's testimony is disregarded, the jury was free to reject Lawson's insanity defense and Dr. Trier's testimony and find that she was legally sane at the time of J.K.'s death.

### Insanity in Indiana

"A person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense." **Ind. Code Sec. 35-41-3-6(a).**

## Social Media and the Courts

Sometimes we're so steeped in things we don't really notice them. Take social media; we spend so much time texting, tweeting, Facebooking, etc., that it's like water to a fish – just part of our world.

But Courts don't swim so easily in that environment. After all, social media is frothy, effervescent and bubbling with **now**. Courts are sober, slow and cautious.

Nor are Courts well suited to another defining characteristic of new media: the "anything goes" quality of so much Facebook, Twitter and YouTube content.

Yet Courts aren't blind to technology, as proved by even a quick glance at the Indiana judiciary's website, [www.in.gov/judiciary](http://www.in.gov/judiciary). As further evidence, one-third of ranking Court officials who responded to a national survey on new media said they have used social media in either their professional or personal lives.

Still, the question arises: Can Courts tap the power and dynamism of new media while still honoring the integrity and responsibilities that rightly fall to America's third great branch of government?

@inCourts offers one approach to that question. Launched at the direction of Indiana Supreme Court Chief Justice Randall Shepard, @inCourts has 859 individual followers, 66 list followers and 283 tweets.

Followers include @PBhere/Courts-that-twitter, which offers a handy portal

to tweets from state-level Courts around the country, including Appellate Courts.

Even the U.S. Supreme Court has a Twitter account, @USSupremeCourt.

True, a typical Court tweet isn't exactly "Jersey Shore" material. Judge Snooki is not in session! But tweets and retweets about anticipated opinions or new Court procedures can be of significant service to a host of professional, media and lay people who closely follow the law and legal developments.

Having said all that, the Courts and social media aren't exactly locked in tight embrace. According to the above-mentioned survey (conducted by the Conference of Court Public Information Officers), less than 7 percent of Courts have social media profile sites such as Facebook, and only 7 percent use Twitter or similar microblogging tools.

Ethical concerns may explain those low adoption rates. Almost half the judges who responded to the survey disagreed with the idea that they could use social media in their professional lives without compromising professional codes of conduct.

As Judge Edward W. Najam Jr., of the Court of Appeals of Indiana has said, "A court speaks through its opinions" and not through public commentary in new or old media.

As always, the future requires a "stay tuned" caveat. But who would be surprised if our still-evolving dance with social media end up shaping the Courts' approach to new media in unexpected ways?

## Today's Panel of Judges

### The Honorable Edward W. Najam Jr. (Monroe County)

**Edward W. Najam Jr.**, was nominated and appointed to the Court of Appeals of Indiana in 1992 and was retained by the electorate in 1996 and 2006.

Judge Najam graduated from the Indiana University High School in Bloomington, where he was raised, and attended Indiana University Bloomington. While at IU, he was elected to Phi Beta Kappa, elected Student Body President, and earned a B.A. in political science in 1969, With Highest Distinction. He also received the Herman B Wells Senior Recognition Award for academic excellence and campus leadership.

Judge Najam earned his J.D. from the Harvard Law School in 1972. After admission to the Bar, he was Administrative Assistant to the Mayor of Bloomington for two years and an attorney in private practice for eighteen years. He served as a member of the Civil Justice Reform Act Advisory Group and the Local Rules Advisory Committee of the United States District Court for the Southern District of Indiana. He was a member of the Bloomington Rotary Club, the Greater Bloomington Chamber of Commerce, and President of the Monroe County YMCA Board of Directors. Judge Najam is a director of the Community Foundation of Bloomington and Monroe County.

As Chair of the Appellate Practice Section of the Indiana State Bar Association, he initiated the Appellate Rules Project, which culminated in a complete revision of the Indiana Rules of Appellate Procedure in 2000, the first comprehensive review of the appellate rules in 30 years. In 2001, he organized and co-chaired "Caught in the Middle: A National Symposium on the Role of State Intermediate Appellate Courts," attended by judges from 22 states, the first such national conference. He

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### The Honorable Paul D. Mathias (Allen County)

**Paul D. Mathias** was appointed to the Court of Appeals in March 2000 and was retained by election in 2002.

He is a fifth generation Hoosier who grew up in Fort Wayne and graduated *cum laude* from Harvard University in 1976. Judge Mathias earned his law degree in 1979 from Indiana University School of Law-Bloomington, where he was a member of the Sherman Minton Moot Court Team and *Order of Barrister*.

Judge Mathias practiced law for six years in Fort Wayne, concentrating in construction law, personal injury and appellate practice. He was appointed Referee of Allen County Small Claims Court in 1985 and in 1989 was appointed Judge of the Allen Superior Court.

Judge Mathias served as an officer of the Indiana Judges Association from 1993 to 1999 and as president from 1997 to 1999. He received the Centennial Service Award from the Indiana State Bar Association upon its 100th anniversary in 1996, and was named a Sagamore of the Wabash by two governors.

Judge Mathias is keenly interested in the intersection of law and technology and often consults and speaks on tech topics to attorneys and judges.

Judge Mathias is a longtime supporter of *We the People*, a national civics education program sponsored locally by the Indiana Bar Foundation. He coaches high school *We the People* teams in Indiana's 5th Congressional District and helps organize high school *We the People* competitions in the 3rd Congressional District. In 2010, he received the Indiana Bar Foundation's William G. Baker Civic Education Award.

Judge Mathias has been married for 36 years and is the proud father of two sons, who teach high school. He enjoys technology and photography and spends many weekends building theatrical sets for a local high school.

### The Honorable Michael P. Barnes (St. Joseph County)

**Michael P. Barnes** was appointed to the Court of Appeals of Indiana by Governor Frank O'Bannon on May 22, 2000. He received his B.A. in History from St. Ambrose College in Davenport, Iowa in 1970 and his J.D. from the University of Notre Dame Law School in 1973.

Judge Barnes was a Deputy Prosecuting Attorney and privately practiced law in South Bend from 1973 to 1978. In 1978 he was elected the St. Joseph County Prosecuting Attorney, a position he held for 20 years over five elections.

While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community.

Judge Barnes also created a domestic and family violence unit in the Prosecutor's office and launched a pre-trial diversion program for nonviolent offenders that served as a model for successful state legislation.

Also while Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chairman of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and various other professional and civic organizations.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes, who was retained on the Court of Appeals by election in 2002, is married and has two sons.

He is an avid baseball fan and reader.